

HOUSE BILL 704

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HB 455/02 - JUD

2003 Regular Session
3r1274
CF 3r1275

By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates Amedori, Barkley, Boschert, Boutin, Bronrott, Cadden, Conway, Donoghue, Dumais, Fulton, Goldwater, Hammen, Healey, Heller, Hixson, Howard, Hubbard, Impallaria, Kach, Lee, Love, Mandel, McDonough, Menes, Minnick, Morhaim, O'Donnell, Owings, Pendergrass, Rawlings, Rudolph, Sophocleus, and Stocksdale**

Introduced and read first time: February 7, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State Office for Victims and Witnesses of Crime**

3 FOR the purpose of establishing the State Office for Victims and Witnesses of Crime
4 as part of the Executive Department; establishing the purpose of the Office to
5 coordinate State responsibilities for ensuring the rights of and provision of
6 services to victims and witnesses of crimes and delinquent acts; stating certain
7 findings of the General Assembly relating to the needs of victims of crimes and
8 delinquent acts; establishing that the head of the Office is the Special Secretary
9 for Victims and Witnesses of Crime; establishing that the Special Secretary is
10 appointed by the Governor; establishing the salary and responsibilities of the
11 Special Secretary; authorizing the Special Secretary to employ certain staff;
12 establishing the duties of the Office; providing for certain salaries and expenses
13 of the Office; providing for the establishment of standards of training and
14 experience for positions in the Office; altering certain responsibility for certain
15 notoriety of crimes contracts from the Attorney General to the Special Secretary;
16 transferring oversight and responsibility for the functions of the Criminal
17 Injuries Compensation Board from the Department of Public Safety and
18 Correctional Services to the Office; transferring oversight and responsibility for
19 the functions of the State Board of Victim Services from the Governor's Office of
20 Crime Control and Prevention to the Office; providing that the Special Secretary
21 shall be a member of the State Board of Victim Services; requiring the Special
22 Secretary, or in certain instances the Special Secretary's designee or a
23 representative of the Special Secretary, to be a member of certain State boards
24 and commissions; defining certain terms; providing for the continuation of
25 appointed or elected officials in their term of office; providing for the transfer of
26 certain assets and employees of several units of government into a single unit;
27 providing for certain funding; providing for a delayed effective date; and
28 generally relating to the creation of the State Office for Victims and Witnesses of
29 Crime.

30 BY repealing and reenacting, with amendments,

1 Article 10 - Legal Officials
2 Section 41D(a)
3 Annotated Code of Maryland
4 (2001 Replacement Volume and 2002 Supplement)

5 BY adding to
6 Article 41 - Governor - Executive and Administrative Departments
7 Section 10-1001 through 10-1006, inclusive, to be under the new subtitle
8 "Subtitle 10. State Office for Victims and Witnesses of Crime"
9 Annotated Code of Maryland
10 (1997 Replacement Volume and 2002 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article 49D - Office for Children, Youth, and Families
13 Section 4.1(b)
14 Annotated Code of Maryland
15 (1998 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article 83C - Juvenile Justice
18 Section 2-107(a)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2002 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Correctional Services
23 Section 8-204(a)
24 Annotated Code of Maryland
25 (1999 Volume and 2002 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Criminal Procedure
28 Section 6-204(a), 10-208(a), 11-621 through 11-626, inclusive, 11-628 through
29 11-632, inclusive, 11-801, 11-803, 11-804, 11-805(a), 11-814, 11-815,
30 11-910, 11-911, 11-912(a), 11-914, 11-915, and 11-919
31 Annotated Code of Maryland
32 (2001 Volume and 2002 Supplement)

33 BY repealing and reenacting, without amendments,
34 Article - Public Safety
35 Section 2-702(a)
36 Annotated Code of Maryland
37 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of

1 2003)

2 BY repealing and reenacting, with amendments,

3 Article - Public Safety

4 Section 2-702(b) and 3-203(a)

5 Annotated Code of Maryland

6 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of

7 2003)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article 10 - Legal Officials**

11 41D.

12 (a) The State's Attorneys' Coordination Council is created. It consists of:

13 (1) The Attorney General;

14 (2) The State's Attorney for Baltimore City;

15 (3) The State's Attorney for Baltimore County;

16 (4) The State's Attorney for Anne Arundel County;

17 (5) The State's Attorney for Prince George's County;

18 (6) The State's Attorney for Montgomery County;

19 (7) The State's Attorney from either Howard, Carroll, or Harford County
20 who is chosen by a majority vote of the State's Attorneys of these counties;

21 (8) The State's Attorney from either St. Mary's, Charles, or Calvert
22 County who is chosen by a majority vote of the State's Attorneys of these counties;

23 (9) The State's Attorney from either Frederick, Washington, Allegany, or
24 Garrett County who is chosen by a majority vote of the State's Attorneys for these
25 counties;

26 (10) The State's Attorney of either Cecil, Kent, Queen Anne's, Caroline, or
27 Talbot County who is chosen by a majority vote of the State's Attorneys for these
28 counties; [and]

29 (11) The State's Attorney of either Dorchester, Wicomico, Worcester, or
30 Somerset County who is chosen by a majority vote of the State's Attorneys for these
31 counties; AND

32 (12) THE SPECIAL SECRETARY OF THE STATE OFFICE FOR VICTIMS AND
33 WITNESSES OF CRIME.

1 **Article 41 - Governor - Executive and Administrative Departments**

2 SUBTITLE 10. STATE OFFICE FOR VICTIMS AND WITNESSES OF CRIME.

3 10-1001.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "OFFICE" MEANS THE STATE OFFICE FOR VICTIMS AND WITNESSES OF
7 CRIME.8 (C) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR VICTIMS
9 AND WITNESSES OF CRIME.

10 10-1002.

11 (A) THERE IS A STATE OFFICE FOR VICTIMS AND WITNESSES OF CRIME IN THE
12 EXECUTIVE DEPARTMENT.13 (B) THE PURPOSE OF THE OFFICE IS TO COORDINATE STATE
14 RESPONSIBILITIES FOR GUARANTEEING THE RIGHTS OF AND PROVIDING SERVICES
15 TO VICTIMS AND WITNESSES OF CRIMES AND DELINQUENT ACTS.

16 10-1003.

17 IN RECOGNITION THAT STATE AND LOCAL LAW, PROGRAMS, AND PROCEDURES
18 MUST BE UPDATED CONTINUALLY TO MEET THE UNIQUE NEEDS OF VICTIMS OF
19 CRIME AND DELINQUENT ACTS, THE GENERAL ASSEMBLY FINDS THAT:20 (1) THERE IS A NEED FOR CONSOLIDATED EFFORTS FOR THE PURPOSE
21 OF MONITORING, ASSESSING, COORDINATING, AND MAKING RECOMMENDATIONS
22 CONCERNING STATE AND LOCAL EFFORTS TO ASSIST VICTIMS OF CRIMES AND
23 DELINQUENT ACTS;24 (2) VICTIMS' PROGRAMS SHOULD BE TRANSFERRED AND
25 CONSOLIDATED TO BE UNDER THE AUTHORITY OF THE OFFICE; AND26 (3) THE ADMINISTRATIVE CONSOLIDATION EFFECTED BY THIS
27 TRANSFER WILL:28 (I) MINIMIZE FRAGMENTATION OF FUNCTIONS THAT THE STATE
29 GOVERNMENT PERFORMS ON BEHALF OF VICTIMS OF CRIME AND DELINQUENT
30 ACTS; AND31 (II) IMPROVE THE COORDINATION, EFFICIENCY, AND
32 EFFECTIVENESS OF STATE ASSISTANCE TO VICTIMS OF CRIME AND DELINQUENT
33 ACTS.

1 10-1004.

2 (A) (1) THE HEAD OF THE OFFICE IS THE SPECIAL SECRETARY FOR VICTIMS
3 AND WITNESSES OF CRIME.

4 (2) THE SPECIAL SECRETARY IS APPOINTED BY AND SERVES AT THE
5 PLEASURE OF THE GOVERNOR AND IS DIRECTLY RESPONSIBLE TO THE GOVERNOR.

6 (3) THE SPECIAL SECRETARY SHALL RECEIVE THE SALARY PROVIDED
7 FOR IN THE STATE BUDGET.

8 (B) THE SPECIAL SECRETARY IS RESPONSIBLE FOR CARRYING OUT THE
9 DUTIES OF THE OFFICE AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO
10 PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE OFFICE.

11 (C) THE SPECIAL SECRETARY SHALL EMPLOY THE STAFF NECESSARY FOR
12 CARRYING OUT THE FUNCTIONS OF THE OFFICE.

13 10-1005.

14 THE OFFICE SHALL:

15 (1) ADMINISTER PROGRAMS AND ACTIVITIES FOR VICTIMS AND
16 WITNESSES OF CRIME AND DELINQUENT ACTS THAT ARE NOT OTHERWISE
17 COMMITTED BY LAW TO ANOTHER UNIT OF STATE GOVERNMENT;

18 (2) EVALUATE THE SERVICE NEEDS OF VICTIMS AND WITNESSES OF
19 CRIMES AND DELINQUENT ACTS IN THE STATE;

20 (3) DETERMINE THE EXTENT OF COMPLIANCE WITH STATE LAWS
21 REGARDING RIGHTS OF VICTIMS OF CRIME AND DELINQUENT ACTS;

22 (4) SUBJECT TO EXISTING LAW, COORDINATE AND EVALUATE ALL
23 STATE AND LOCAL PROGRAMS AND SERVICES, BOTH PUBLIC AND PRIVATE, INsofar
24 AS THEY RELATE TO AND ARE IMPORTANT TO THE WELL-BEING OF THE STATE'S
25 VICTIMS AND WITNESSES OF CRIME AND DELINQUENT ACTS;

26 (5) REPRESENT THE INTERESTS OF VICTIMS AND WITNESSES OF CRIME
27 AND DELINQUENT ACTS BY SERVING AS AN ADVOCATE AT ALL LEVELS OF
28 GOVERNMENT;

29 (6) COOPERATE WITH STATE, FEDERAL, AND LOCAL GOVERNMENTAL
30 UNITS IN CARRYING OUT THE DUTIES OF THE OFFICE;

31 (7) ACCEPT AND USE STATE AND FEDERAL FUNDS TO CARRY OUT THE
32 DUTIES OF THE OFFICE; AND

33 (8) PREPARE AND SUBMIT A BUDGET IN ACCORDANCE WITH THE
34 NORMAL BUDGET PROCESS.

1 10-1006.

2 (A) ALL SALARIES AND EXPENSES FOR STAFF, RENT, STATIONERY, POSTAGE,
3 AND MISCELLANEOUS OFFICE MATERIALS NECESSARY FOR THE WORK OF THE
4 OFFICE, SPECIAL SECRETARY, AND STAFF SHALL BE PROVIDED IN THE STATE
5 BUDGET.

6 (B) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT,
7 THE SPECIAL SECRETARY SHALL SET MINIMUM STANDARDS OF TRAINING AND
8 EXPERIENCE FOR POSITIONS IN THE OFFICE.

9 **Article 49D - Office for Children, Youth, and Families**

10 4.1.

11 (b) The Subcabinet for Children, Youth, and Families consists of:

12 (1) The Special Secretary;

13 (2) The Secretary of Health and Mental Hygiene;

14 (3) The Secretary of Human Resources;

15 (4) The Secretary of Juvenile Justice;

16 (5) The State Superintendent of Schools;

17 (6) The Secretary of Budget and Management;

18 (7) The Director of the Office for Individuals with Disabilities; [and]

19 (8) THE SPECIAL SECRETARY OF THE STATE OFFICE FOR VICTIMS AND
20 WITNESSES OF CRIME; AND

21 (9) A representative from any other State agency that the Governor
22 designates.

23 **Article 83C - Juvenile Justice**

24 2-107.

25 (a) (1) The State Advisory Board consists of [18] 19 members appointed by
26 the Governor.

27 (2) Of the [18] 19 State Advisory Board members:

28 (i) 1 shall be a representative of the Department;

29 (ii) 1 shall be a representative of the Department of Health and
30 Mental Hygiene;

- 1 (iii) 1 shall be a representative of the State Department of
2 Education;
- 3 (iv) 1 shall be a representative of the Department of State Police;
- 4 (v) 1 shall be a representative of the State Social Services
5 Administration;
- 6 (vi) 1 shall be a representative of a voluntary child welfare agency;
- 7 (vii) 3 shall be representatives of the State judiciary;
- 8 (viii) 2 shall be representatives of the General Assembly with one
9 recommended by the President of the Senate and one recommended by the Speaker of
10 the House; [and]
- 11 (ix) 1 SHALL BE A REPRESENTATIVE OF THE STATE OFFICE FOR
12 VICTIMS AND WITNESSES OF CRIME; AND
- 13 (X) 7 shall be from the general public.

14 **Article - Correctional Services**

15 8-204.

- 16 (a) The Commission consists of the following [14] 15 members:
- 17 (1) the Secretary of Public Safety and Correctional Services;
- 18 (2) the Secretary of Juvenile Justice;
- 19 (3) the Director of the Division of Parole and Probation;
- 20 (4) the Commissioner of Correction;
- 21 (5) the president of the Maryland Correctional Administrators
22 Association;
- 23 (6) the president of the Maryland Sheriffs Association;
- 24 (7) the president of the Maryland Criminal Justice Association;
- 25 (8) a representative of the Federal Bureau of Prisons, designated by its
26 Director;
- 27 (9) the Attorney General of the State;
- 28 (10) the president of a university or college in the State with a
29 correctional education curriculum, appointed by the Maryland Higher Education
30 Commission; [and]

1 (11) four correctional officers or officials of the State appointed under
2 subsection (b) of this section; AND

3 (12) THE SPECIAL SECRETARY OF THE STATE OFFICE FOR VICTIMS AND
4 WITNESSES OF CRIME OR THE SPECIAL SECRETARY'S DESIGNEE.

5 **Article - Criminal Procedure**

6 6-204.

7 (a) The Commission consists of the following [19] 20 members:

8 (1) a chairman, appointed by the Governor;

9 (2) (i) the Chief Judge of the Court of Appeals; or

10 (ii) a judge or former judge of the Court of Appeals or the Court of
11 Special Appeals designated by the Chief Judge of the Court of Appeals;

12 (3) one circuit court judge, appointed by the Chief Judge of the Court of
13 Appeals;

14 (4) one District Court judge, appointed by the Chief Judge of the Court of
15 Appeals;

16 (5) the Attorney General or the Attorney General's designee;

17 (6) one State's Attorney who is recommended by the President of the
18 Maryland State's Attorneys Association, appointed by the Governor;

19 (7) the Public Defender or the Public Defender's designee;

20 (8) a criminal defense attorney who is recommended by the President of
21 the Maryland Criminal Defense Attorneys Association, appointed by the Governor;

22 (9) two members of the State Senate, including at least one member of
23 the Senate Judicial Proceedings Committee, appointed by the President of the Senate;

24 (10) two members of the House of Delegates, including at least one
25 member of the House Judiciary Committee, appointed by the Speaker of the House;

26 (11) the Secretary of the Department or the Secretary's designee;

27 (12) one representative from a victims' advocacy group, appointed by the
28 Governor;

29 (13) one representative from law enforcement, appointed by the Governor;

30 (14) one member with a background in criminal justice or corrections
31 policy who is a recognized expert in the field and who is appointed by the Governor;

1 (15) one representative of local correctional facilities, appointed by the
2 Governor; [and]

3 (16) two representatives of the public, appointed by the Governor; AND

4 (17) THE SPECIAL SECRETARY OF THE STATE OFFICE FOR VICTIMS AND
5 WITNESSES OF CRIME OR THE SPECIAL SECRETARY'S DESIGNEE.

6 10-208.

7 (a) The Advisory Board consists of the following [22] 23 members:

8 (1) one member of the Senate appointed by the President;

9 (2) one member of the House of Delegates appointed by the Speaker;

10 (3) three members from the Judicial Branch of State government
11 appointed by the Chief Judge of the Court of Appeals;

12 (4) the Executive Director of the Governor's Office of Crime Control and
13 Prevention;

14 (5) three members recommended by the Secretary;

15 (6) two members who are executive officials from State, county, or
16 municipal police units;

17 (7) the Director of the Maryland Justice Analysis Center of the
18 Department of Criminology and Criminal Justice of the University of Maryland;

19 (8) two elected county officials;

20 (9) the Attorney General;

21 (10) one elected official of a municipal corporation;

22 (11) one State's Attorney;

23 (12) one member of the State Council on Child Abuse and Neglect
24 recommended by the council chairperson;

25 (13) one representative of the Department of Health and Mental Hygiene,
26 recommended by the Secretary of Health and Mental Hygiene;

27 (14) one representative of the Department of Juvenile Justice
28 recommended by the Secretary of Juvenile Justice;

29 (15) one representative from the Motor Vehicle Administration
30 recommended by the Secretary of Transportation; [and]

31 (16) one member from the public; AND

1 (17) THE SPECIAL SECRETARY OF THE STATE OFFICE FOR VICTIMS AND
2 WITNESSES OF CRIME.

3 11-621.

4 (a) In Part II of this subtitle the following words have the meanings indicated.

5 (b) (1) "Defendant" means a person charged with or convicted of a crime in
6 the State that involves or causes personal injury, death, or property loss as a direct
7 result of the crime.

8 (2) "Defendant" includes a person found not criminally responsible for
9 criminal conduct under § 3-109 of this article.

10 (c) "Notoriety of crimes contract" means a contract or other agreement with a
11 defendant, or a representative or assignee of a defendant, with respect to:

12 (1) the reenactment of a crime in a movie, book, magazine article, tape
13 recording, phonograph record, radio or television presentation, or live entertainment
14 of any kind;

15 (2) the expression of the defendant's thoughts, feelings, opinions, or
16 emotions regarding a crime involving or causing personal injury, death, or property
17 loss as a direct result of the crime; or

18 (3) the payment or exchange of money or other consideration or the
19 proceeds or profits that directly or indirectly result from a crime, a sentence, or the
20 notoriety of a crime or sentence.

21 (d) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY OF THE STATE
22 OFFICE FOR VICTIMS AND WITNESSES OF CRIME.

23 (E) "Victim" means a person who suffers personal injury, death, or property
24 loss as a direct result of crime.

25 [(e)] (F) "Victim's representative" includes the personal representative of the
26 estate of a deceased victim and a beneficiary under a wrongful death action.

27 11-622.

28 A person who makes a notoriety of crimes contract with a defendant or a
29 representative or assignee of that defendant shall:

30 (1) submit to the [Attorney General] SPECIAL SECRETARY a copy of all
31 written terms and a summary of all oral terms of the notoriety of crimes contract; and

32 (2) pay over to the [Attorney General] SPECIAL SECRETARY any money
33 or other consideration not subject to an order of restitution under § 11-603 of this
34 subtitle that by the terms of the notoriety of crimes contract otherwise would be owed
35 to the defendant or a representative or assignee of the defendant.

1 11-623.

2 (a) On receipt of a submission under § 11-622 of Part II of this subtitle, the
3 [Attorney General] SPECIAL SECRETARY shall mail notice of the receipt to each
4 victim or victim's representative at the last known address of the victim or victim's
5 representative.

6 (b) The [Attorney General] SPECIAL SECRETARY shall decide whether a
7 contract is a notoriety of crimes contract:

8 (1) after 30 days but before 180 days following receipt of the submission
9 under § 11-622 of Part II of this subtitle; or

10 (2) after 180 days, for cause.

11 (c) (1) For a decision under this section, there is a rebuttable presumption
12 that the contract is a notoriety of crimes contract.

13 (2) The defendant or defendant's assignee may rebut this presumption
14 by establishing to the satisfaction of the [Attorney General] SPECIAL SECRETARY
15 that the subject matter of the contract only tangentially or incidentally relates to the
16 crime.

17 (d) The [Attorney General] SPECIAL SECRETARY:

18 (1) shall notify the defendant or defendant's assignee and the victim or
19 victim's representative of the decision under this section; and

20 (2) may not disburse money collected under § 11-622 of Part II of this
21 subtitle until 60 days after the defendant or defendant's assignee and the victim or
22 victim's representative have been notified of the decision.

23 (e) (1) The decision of the [Attorney General] SPECIAL SECRETARY under
24 this section is a final decision and may be appealed by a defendant or defendant's
25 assignee or a victim or victim's representative only in accordance with § 11-630 of
26 Part II of this subtitle and within 60 days after receiving notice of the decision.

27 (2) If the decision is appealed, the [Attorney General] SPECIAL
28 SECRETARY shall keep any money collected in escrow until the [Attorney General]
29 SPECIAL SECRETARY receives a final order of the court.

30 11-624.

31 (a) The [Attorney General] SPECIAL SECRETARY shall deposit money
32 received under this subtitle in an interest bearing escrow account.

33 (b) Except as provided in § 11-625 of Part II of this subtitle and subsection (e)
34 of this section, the [Attorney General] SPECIAL SECRETARY shall hold money for the
35 benefit of and payable to the victim or victim's representative, as provided in
36 subsection (c) of this section.

1 (c) (1) Subject to the priority of claims stated in § 11-628 of Part II of this
2 subtitle, the [Attorney General] SPECIAL SECRETARY shall pay to the victim or
3 victim's representative money from the escrow account to the extent of the money
4 judgment or the amount of restitution if, within 5 years after the escrow account is
5 established, the victim or victim's representative:

6 (i) brings or has pending a civil action against the defendant in a
7 court of competent jurisdiction;

8 (ii) has recovered a money judgment for damages against the
9 defendant; or

10 (iii) has been awarded restitution.

11 (2) Any money that then remains in the escrow account shall be paid as
12 this section provides.

13 (3) Money may not be paid under this subsection until the defendant:

14 (i) has been found guilty;

15 (ii) has pleaded nolo contendere;

16 (iii) has been placed on probation before judgment; or

17 (iv) has been found not criminally responsible for criminal conduct
18 under § 3-109 of this article.

19 (d) (1) At least once every 6 months for 5 years after the date the [Attorney
20 General] SPECIAL SECRETARY receives money or other consideration under this
21 subtitle, the [Attorney General] SPECIAL SECRETARY shall publish a legal notice in
22 a newspaper of general circulation in the county where the crime was committed and
23 in counties contiguous to that county.

24 (2) The notice shall advise the victim or victim's representative that
25 escrow money is available to satisfy money judgments under this subtitle.

26 (3) The [Attorney General] SPECIAL SECRETARY may provide for any
27 further notice that the [Attorney General] SPECIAL SECRETARY considers necessary.

28 (e) Except as provided in subsection (f) of this section, the [Attorney General]
29 SPECIAL SECRETARY shall pay over to the defendant all of the money from the escrow
30 account if:

31 (1) the charges against the defendant are dismissed;

32 (2) a nolle prosequi is entered;

33 (3) the defendant is acquitted;

1 (4) the defendant is found to be incompetent to stand trial under § 3-106
2 of this article and at least 5 years have passed since that finding without a further
3 disposition of the charge; or

4 (5) the charges against the defendant are placed on the stet docket, and
5 at least 3 years have passed.

6 (f) Notwithstanding § 11-628 of Part II of this subtitle, if a defendant was
7 convicted before July 1, 1987, the [Attorney General] SPECIAL SECRETARY shall pay
8 over to the defendant:

9 (1) all money in the escrow account if:

10 (i) at least 5 years have passed since the escrow account was
11 established; and

12 (ii) no action by the victim or victim's representative is pending
13 against the defendant; or

14 (2) all money remaining in the escrow account after payment of the
15 claims described in § 11-628 of Part II of this subtitle.

16 11-625.

17 (a) The [Attorney General] SPECIAL SECRETARY shall pay the defendant
18 from the escrow account the money that a court of competent jurisdiction in an order
19 finds will be used to hire legal counsel at any stage of the criminal case, including an
20 appeal.

21 (b) After notice to each victim or victim's representative, the [Attorney
22 General] SPECIAL SECRETARY shall pay money from the escrow account to a
23 representative of a defendant for the necessary expenses of production of the money
24 paid into the escrow account if the [Attorney General] SPECIAL SECRETARY finds
25 that the payments are necessary and are not contrary to public policy.

26 (c) The [Attorney General] SPECIAL SECRETARY may pay from the escrow
27 account the costs of legal notices required under § 11-624 of Part II of this subtitle.

28 (d) The total of all payments made from the escrow account under this section
29 may not exceed 25% of the total payments that are:

30 (1) made into the escrow account; and

31 (2) available to satisfy judgments obtained by the victim or victim's
32 representative.

33 11-626.

34 Notwithstanding any other law, including the statute of limitations for a
35 wrongful death action, a victim or victim's representative who seeks to bring a civil
36 action under Part II of this subtitle shall bring the action against a defendant within

1 5 years after the [Attorney General] SPECIAL SECRETARY establishes an escrow
2 account.

3 11-628.

4 (a) Notwithstanding any other law, a claim on money in the escrow account
5 has the following priorities in this order:

6 (1) payments ordered by the [Attorney General] SPECIAL SECRETARY or
7 a court under § 11-625 of Part II of this subtitle;

8 (2) subrogation claims of the State under § 11-817 of this title;

9 (3) a court order of restitution under § 11-603 of this subtitle;

10 (4) a civil judgment of a victim or victim's representative; and

11 (5) a civil judgment of a person, other than a victim or victim's
12 representative, arising out of the crime.

13 (b) The [Attorney General] SPECIAL SECRETARY may bring an action of
14 interpleader or an action for declaratory judgment when the [Attorney General]
15 SPECIAL SECRETARY is unable to determine the priority of claims and the proper
16 disposition of the escrow account.

17 (c) After payment of the claims described in subsection (a) of this section, the
18 [Attorney General] SPECIAL SECRETARY shall deposit the money remaining in the
19 escrow account in the State Victims of Crime Fund that is established under § 11-916
20 of this title.

21 11-629.

22 (a) Notwithstanding any other law, the [Attorney General] SPECIAL
23 SECRETARY has exclusive jurisdiction and control as escrow agent over money or
24 other consideration subject to Part II of this subtitle.

25 (b) Money in an escrow account may be distributed only by a determination
26 and order of the [Attorney General] SPECIAL SECRETARY under Part II of this
27 subtitle.

28 (c) The [Attorney General] SPECIAL SECRETARY may adopt regulations to
29 carry out Part II of this subtitle.

30 11-630.

31 A person aggrieved by a final determination and order of the [Attorney
32 General] SPECIAL SECRETARY under Part II of this subtitle may seek judicial review.
33 11-631.

34 (a) A person may not willfully fail:

1 (1) to submit to the [Attorney General] SPECIAL SECRETARY a copy of
2 all written terms and a summary of all oral terms of a notoriety of crimes contract
3 described in § 11-622 of Part II of this subtitle; or

4 (2) to pay over to the [Attorney General] SPECIAL SECRETARY any
5 money or other consideration as this subtitle requires.

6 (b) (1) A person who violates this section is subject to a civil penalty of not
7 less than \$10,000 for each offense and not exceeding 3 times the notoriety of crimes
8 contract amount.

9 (2) If two or more persons are subject to the penalties provided in this
10 section, those persons shall be jointly and severally liable for the payment of the
11 penalty imposed.

12 (3) After notice and opportunity to be heard is provided, the [Attorney
13 General] SPECIAL SECRETARY by order may assess the penalties described in this
14 subsection.

15 (4) A penalty assessed under this subsection that is not paid within 30
16 days after the date of the order shall bear interest at the rate of 1% per month,
17 compounded monthly.

18 (5) (i) An action to recover a civil penalty assessed under this
19 subsection may be brought by the [Attorney General] SPECIAL SECRETARY in a court
20 of competent jurisdiction within 6 years after the cause of action accrues.

21 (ii) Any money recovered under subparagraph (i) of this paragraph
22 shall be paid into the State Victims of Crime Fund that is established under § 11-916
23 of this title.

24 11-632.

25 (a) The [Attorney General] SPECIAL SECRETARY may bring a proceeding in a
26 court of competent jurisdiction against a person who violates or threatens to violate
27 Part II of this subtitle to restrain the person from continuing the violation or carrying
28 out the threat.

29 (b) In a proceeding under this section, a court has jurisdiction to grant to the
30 [Attorney General] SPECIAL SECRETARY, without bond or other undertaking, a
31 prohibitory or mandatory injunction as the facts may warrant, including temporary
32 restraining orders and preliminary injunctions to prevent payments under a notoriety
33 of crimes contract that violates Part II of this subtitle.

34 11-801.

35 (a) In this subtitle the following words have the meanings indicated.

36 (b) "Board" means the Criminal Injuries Compensation Board.

1 (c) "Claimant" means the person filing a claim under this subtitle.

2 (d) (1) "Crime" means:

3 (i) except as provided in paragraph (2) of this subsection, a
4 criminal offense under state, federal, or common law that is committed in:

5 1. this State; or

6 2. another state against a resident of this State; or

7 (ii) an act of international terrorism as defined in Title 18, § 2331 of
8 the United States Code that is committed outside of the United States against a
9 resident of this State.

10 (2) "Crime" does not include an act involving the operation of a vessel or
11 motor vehicle unless the act is:

12 (i) a violation of § 20-102, § 20-104, § 21-902, or § 21-904 of the
13 Transportation Article; or

14 (ii) operating a motor vehicle or vessel that results in an intentional
15 injury.

16 (e) "Dependent" means:

17 (1) a surviving spouse or child of a person; or

18 (2) a person who is dependent on another person for principal support.

19 (f) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY OF THE STATE
20 OFFICE FOR VICTIMS AND WITNESSES OF CRIME.

21 (G) "Victim" means a person:

22 (1) who suffers physical injury or death as a result of a crime or
23 delinquent act;

24 (2) who suffers psychological injury as a direct result of:

25 (i) a fourth degree sexual offense or a delinquent act that would be
26 a fourth degree sexual offense if committed by an adult;

27 (ii) a felony or a delinquent act that would be a felony if committed
28 by an adult; or

29 (iii) physical injury or death directly resulting from a crime or
30 delinquent act; or

31 (3) who suffers physical injury or death as a direct result of:

1 (i) trying to prevent a crime or delinquent act or an attempted
2 crime or delinquent act from occurring in the person's presence;

3 (ii) trying to apprehend an offender who had committed a crime or
4 delinquent act in the person's presence or had committed a felony or a delinquent act
5 that would be a felony if committed by an adult; or

6 (iii) helping a law enforcement officer in the performance of the
7 officer's duties or helping a member of a fire department who is being obstructed from
8 performing the member's duties.

9 11-803.

10 The SPECIAL Secretary may designate a person to carry out the duties of the
11 SPECIAL Secretary.

12 11-804.

13 (a) There is a Criminal Injuries Compensation Board in the [Department]
14 STATE OFFICE FOR VICTIMS AND WITNESSES OF CRIME.

15 (b) (1) The Board consists of five members.

16 (2) Of the five members of the Board:

17 (i) no more than four may belong to the same political party; and

18 (ii) one shall have been admitted to practice law in the State for at
19 least 5 years immediately preceding the appointment.

20 (3) The SPECIAL Secretary shall appoint the members of the Board, with
21 the approval of the Governor and the advice and consent of the Senate.

22 (c) (1) The term of a member is 5 years.

23 (2) A member who is appointed to fill a vacancy occurring other than by
24 expiration of a term serves for the rest of the unexpired term.

25 (d) (1) With the approval of the Governor, the SPECIAL Secretary shall
26 designate one member of the Board as chairman.

27 (2) The chairman serves at the pleasure of the SPECIAL Secretary.

28 (e) (1) Each member of the Board shall devote the time necessary to perform
29 the duties listed under this subtitle.

30 (2) Each member of the Board is entitled to:

31 (i) compensation in accordance with the State budget; and

1 (ii) reimbursement for expenses under the Standard State Travel
2 Regulations, as provided in the State budget.

3 11-805.

4 (a) Subject to the authority of the SPECIAL Secretary [as set forth in Title 2,
5 Subtitle 1 of the Correctional Services Article], the Board has the following powers
6 and duties:

7 (1) to establish and maintain an office and to appoint and prescribe the
8 duties of a claims examiner, a [secretary] DIRECTOR, clerks, and any other
9 employees and agents as may be necessary;

10 (2) to adopt regulations to carry out the provisions and purposes of this
11 subtitle, including procedures for the review and evaluation of claims and regulations
12 for the approval of attorneys' fees for representation before the Board or before the
13 court on judicial review;

14 (3) to request from the State's Attorney, the Department of State Police,
15 or county or municipal police departments any investigation and information that will
16 help the Board to determine:

17 (i) whether a crime or a delinquent act was committed or
18 attempted; and

19 (ii) whether and to what extent the victim or claimant was
20 responsible for the victim's or claimant's own injury;

21 (4) to hear and determine each claim for an award filed with the Board
22 under this subtitle and to reinvestigate or reopen a case as the Board determines to
23 be necessary;

24 (5) to direct medical examination of victims;

25 (6) to hold hearings, administer oaths, examine any person under oath,
26 and issue subpoenas requiring the attendance and testimony of witnesses or
27 requiring the production of documents or other evidence;

28 (7) to take or cause to be taken affidavits or depositions within or outside
29 the State; and

30 (8) to submit each year to the Governor, to the SPECIAL Secretary, and,
31 subject to § 2-1246 of the State Government Article, to the General Assembly a
32 written report of the activities of the Board.

33 11-814.

34 (a) Within 30 days after the receipt of a claim, the Board shall notify the
35 claimant if additional material is required.

1 (b) (1) Except as provided in paragraph (2) of this subsection, within 90 days
2 after the receipt of a claim and all necessary supporting material, the Board shall:

3 (i) complete the review and evaluation of each claim; and

4 (ii) file with the SPECIAL Secretary a written report setting forth
5 the decision and the reasons in support of the decision.

6 (2) For good cause shown, for a period not to exceed 1 year the Board
7 may extend the time to file its report with the SPECIAL Secretary after receipt of the
8 claim and all necessary supporting material until the first to occur of the following
9 events:

10 (i) the claimant no longer has expenses related to the crime; or

11 (ii) the claimant has been awarded the maximum amount
12 authorized under §§ 11-811(b) and 11-812 of this subtitle.

13 (c) Within 30 days after the receipt of a written report from the Board, the
14 SPECIAL Secretary shall modify, affirm, or reverse the decision of the Board.

15 (d) The decision of the SPECIAL Secretary to affirm, modify, or reverse the
16 decision of the Board is final.

17 (e) The claimant shall be given a copy of the final report on request.

18 11-815.

19 Within 30 days after the final decision of the SPECIAL Secretary, a claimant
20 aggrieved by that decision may appeal the decision under §§ 10-222 and 10-223 of
21 the State Government Article.

22 11-910.

23 (a) In Part II of this subtitle the following words have the meanings indicated.

24 (b) "Board" means the State Board of Victim Services.

25 (c) "Crime" means conduct that is a crime under:

26 (1) common law;

27 (2) this article;

28 (3) Article 27 of the Code; or

29 (4) § 3-218, § 3-305(c)(2), § 3-409(a) or (c), § 3-803(b), § 3-807(i), §
30 3-808(d), § 3-811(c), § 8-801, § 8-802, § 9-602(e), § 11-702(b)(8), § 11-703(d)(5)(iii), §
31 11-706(b)(8), § 11-708(b)(8)(ii), § 11-711(h)(2), § 11-712(c)(6)(ii), § 11-714(c)(6), §
32 11-715(g)(2), § 11-716(h)(2), § 11-723(b)(8), or § 11-726 of the Correctional Services
33 Article.

1 (d) ["Executive Director" means the Executive Director of the Governor's
2 Office of Crime Control and Prevention.

3 (e) "Fund" means the State Victims of Crime Fund.

4 [(f)] (E) "OFFICE" MEANS THE STATE OFFICE FOR VICTIMS AND WITNESSES
5 OF CRIME.

6 (F) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR THE STATE
7 OFFICE FOR VICTIMS AND WITNESSES OF CRIME.

8 (G) (1) "Victim" means a person who suffers direct or threatened physical,
9 emotional, or financial harm as a direct result of a crime or of a violation of § 21-902
10 of the Transportation Article.

11 (2) "Victim" includes a family member of a minor, incompetent, or
12 homicide victim.

13 11-911.

14 There is a State Board of Victim Services in the [Governor's Office of Crime
15 Control and Prevention created by Executive Order 01.01.1995.18] STATE OFFICE
16 FOR VICTIMS AND WITNESSES OF CRIME.

17 11-912.

18 (a) The Board consists of the following 22 members:

19 (1) as ex officio members:

20 (i) the Governor or the Governor's designee;

21 (ii) the Attorney General or the Attorney General's designee;

22 (iii) the chairman of the Maryland Criminal Injuries Compensation
23 Board;

24 (iv) the Secretary of Human Resources or the Secretary's designee;

25 (v) the Secretary of Juvenile Justice or the Secretary's designee;

26 (vi) the Secretary of Public Safety and Correctional Services or the
27 Secretary's designee; and

28 (vii) the [Executive Director] SPECIAL SECRETARY or the
29 [Executive Director's] SPECIAL SECRETARY'S designee; and

30 (2) 14 persons appointed by the Governor as follows:

31 (i) two State's Attorneys, recommended by the Attorney General;

1 (ii) six members of the public, recommended by the [Executive
2 Director] SPECIAL SECRETARY;

3 (iii) four professional victim service providers, recommended by the
4 [Executive Director] SPECIAL SECRETARY;

5 (iv) one representative of the Maryland Chiefs of Police;

6 (v) one representative of the Maryland State Sheriff's Association;
7 and

8 (3) one member of the judiciary of the State, appointed by the Chief
9 Judge of the Court of Appeals.

10 11-914.

11 Subject to the authority of the [Executive Director] SPECIAL SECRETARY, the
12 Board shall:

13 (1) submit to the Governor an annual written report of its activities,
14 including its administration of the Fund;

15 (2) monitor the service needs of victims;

16 (3) advise the Governor on the needs of victims;

17 (4) recommend the appointment of the Victim Services Coordinator to
18 the [Executive Director] SPECIAL SECRETARY;

19 (5) review and approve the Victim Services Coordinator's plans and
20 annual reports, and the Victim Services Coordinator's implementation, operation, and
21 revision of programs;

22 (6) approve or disapprove each grant application submitted by the
23 [Governor's Office of Crime Control and Prevention] OFFICE;

24 (7) advise the State's Attorneys' Coordination Council on the adoption of
25 regulations governing the administration of the Victim and Witness Protection and
26 Relocation Program established under § 11-902 of this subtitle;

27 (8) advise the State's Attorneys' Coordinator on the administration of the
28 Victim and Witness Protection and Relocation Program;

29 (9) develop pamphlets to notify victims of the rights, services, and
30 procedures provided under Article 47 of the Maryland Declaration of Rights or State
31 law, including:

32 (i) one pamphlet relating to the time before and after the filing of a
33 charging document other than an indictment or information in circuit court; and

1 (ii) a second pamphlet relating to the time after the filing of an
2 indictment or information in circuit court; and

3 (10) develop a notification request form in consultation with the
4 Administrative Office of the Courts, through which a victim may request to be
5 notified under § 11-104 of this title.

6 11-915.

7 (a) The [Executive Director] SPECIAL SECRETARY shall appoint a Victim
8 Services Coordinator.

9 (b) Subject to the authority of the [Executive Director] SPECIAL SECRETARY,
10 the Victim Services Coordinator shall:

11 (1) provide staff support to the Board on victim services matters;

12 (2) monitor, assess, and make recommendations on State and local
13 victim compensation programs and procedures;

14 (3) provide technical assistance to local public and private programs that
15 provide victim assistance;

16 (4) research and gather data on victims and victim assistance programs,
17 and disseminate the data to the public;

18 (5) submit to the Governor, the Attorney General, the Secretary of Public
19 Safety and Correctional Services, and the Board an annual report that includes
20 recommendations on how to improve victim assistance programs;

21 (6) ensure that the rights of victims are observed;

22 (7) help victims to get the information to which they have a right; and

23 (8) monitor compliance with the guidelines for treatment of and
24 assistance to victims and witnesses under §§ 11-1002 and 11-1003 of this title.

25 (c) The Victim Services Coordinator is entitled to compensation as provided in
26 the State budget.

27 11-919.

28 (a) There is a grant program.

29 (b) The [Governor's Office of Crime Control and Prevention] OFFICE shall:

30 (1) adopt regulations for the administration and award of grants under
31 Part II of this subtitle; and

32 (2) submit all approved grant applications to the Board.

1 (c) The Board shall approve each grant application received by the
 2 [Governor's Office of Crime Control and Prevention] OFFICE before any money is
 3 released from the Fund.

4 **Article - Public Safety**

5 2-702.

6 (a) (1) There is a Vehicle Theft Prevention Council in the Department.

7 (2) The purpose of the Council is to help prevent and deter theft of
 8 private passenger and commercial motor vehicles and related crime, including
 9 vandalism and theft of property from vehicles, in the State.

10 (b) (1) The Council consists of the following [13] 14 members appointed by
 11 the Governor:

12 (i) as ex officio members of the Council:

13 1. the Secretary or a designee;

14 2. the Secretary of Juvenile Justice or a designee;

15 3. the Secretary of Public Safety and Correctional Services or
 16 a designee; [and]

17 4. the Motor Vehicle Administrator of the Motor Vehicle
 18 Administration; and

19 5. THE SPECIAL SECRETARY OF THE STATE OFFICE FOR
 20 VICTIMS AND WITNESSES OF CRIME OR THE SPECIAL SECRETARY'S DESIGNEE; AND

21 (ii) nine regular members.

22 (2) Of the nine regular members:

23 (i) one member shall represent a local law enforcement agency;

24 (ii) one member shall represent a State's Attorney's office in the
 25 State;

26 (iii) one member shall represent a domestic insurer that issues
 27 private passenger automobile or commercial motor vehicle liability insurance in the
 28 State;

29 (iv) one member shall represent a foreign insurer that issues
 30 private passenger automobile or commercial motor vehicle liability insurance in the
 31 State;

32 (v) one member shall represent the Governor's Office;

1 (vi) one member shall represent the National Insurance Crime
2 Bureau or a similar organization; and

3 (vii) three members shall represent the public, including one
4 member who represents a neighborhood or community association.

5 3-203.

6 (a) (1) The Commission consists of [15] 16 members.

7 (2) Of the [15]16 members of the Commission:

8 (i) one shall be the President of the Maryland Chiefs of Police
9 Association;

10 (ii) one shall be the President of the Maryland Sheriffs Association;

11 (iii) one shall be the President of the Maryland Law Enforcement
12 Officers, Inc.;

13 (iv) one shall be the Attorney General of the State;

14 (v) one shall be the Secretary of State Police;

15 (vi) one shall be the Police Commissioner of Baltimore City;

16 (vii) one shall be the Chancellor of the University System of
17 Maryland;

18 (viii) one shall be the agent in charge of the Baltimore office of the
19 F.B.I.;

20 (ix) one shall be the President of the Eastern Shore Police
21 Association;

22 (x) one shall represent the Maryland State Lodge of Fraternal
23 Order of Police;

24 (xi) one shall be the Deputy Secretary of Public Safety and
25 Correctional Services;

26 (xii) one shall be the Chairman of the Maryland Municipal League
27 Police Executive Association; [and]

28 (xiii) three shall be police officials of the State appointed under
29 subsection (b) of this section; AND

30 (XIV) ONE SHALL BE A REPRESENTATIVE OF THE STATE OFFICE FOR
31 VICTIMS AND WITNESSES OF CRIME.

1 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act affects
2 the term of office of an appointed or elected member of any department, board,
3 commission, committee, agency, or other unit. An individual who is a member of a
4 unit on the effective date of this Act shall remain a member for the balance of the
5 term to which appointed or elected unless the member sooner dies, resigns, or is
6 removed under provisions of law.

7 SECTION 3. AND BE IT FURTHER ENACTED, That any employee who is
8 transferred under this Act to the State Office for Victims and Witnesses of Crime
9 without any further examination, qualification, or probationary period shall retain
10 merit system or retirement status and shall not suffer any diminution of salary,
11 wages, accrued leave, or seniority rights and status as a result of such transfer.

12 SECTION 4. AND BE IT FURTHER ENACTED, That any transaction affected
13 by or flowing from any statute here amended, repealed, or transferred, and validly
14 entered into before the effective date of this Act and every right, duty, or interest
15 flowing from it remains valid after the effective date and may be terminated,
16 completed, consummated, or enforced pursuant to law.

17 SECTION 5. AND BE IT FURTHER ENACTED, That any rules and
18 regulations, standards, guidelines, orders and other directives, forms, plans,
19 memberships, funds, appropriations, contracts, properties, administrative and
20 judicial proceedings, rights to sue and be sued, and other duties and responsibilities
21 associated with those functions affected by this Act shall continue in effect until
22 completed, withdrawn, canceled, modified, or otherwise changed in accordance with
23 law.

24 SECTION 6. AND BE IT FURTHER ENACTED, That the personnel, records,
25 files, furniture, fixtures, and other properties and all appropriations, credits, assets,
26 liabilities, and obligations of the State Board of Victim Services and the Criminal
27 Injuries Compensation Board are continued as the personnel, records, files, furniture,
28 fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the
29 State Office for Victims and Witnesses of Crime.

30 SECTION 7. AND BE IT FURTHER ENACTED, That the Governor shall
31 appropriate general, special, and federal funds that were previously budgeted to the
32 State Board of Victim Services and the Criminal Injuries Compensation Fund to the
33 State Office for Victims and Witnesses of Crime.

34 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 January 1, 2004.